REMARKS

Claims 1-12 and 18-20 are currently pending in this application. In the Office Action mailed on June 10, 2004, an election/restriction was required by the Examiner. As explained below, the undersigned requests reconsideration and withdrawal of the election/restriction.

There have been twenty claims pending in the application since its initial filing date on September 27, 2001. The Examiner has already issued two Office Actions and one Advisory Action based on seventeen of those claims. Now, in response to Applicants' Preliminary Amendment filed concurrently with a Request for Continued Examination, the current Office Action seeks to impose a restriction requirement solely because the Examiner is able to discern separate utility in certain subcombinations of the claims.

Under MPEP § 806.05(d), a subcombination may be distinct if it is shown to be separately usable from other subcombinations. However, it is not enough that a particular subcombination exhibit some unique aspect of utility. Each subcombination must be separately usable. As stated in § 806.05(d), before a subcombination of claims can be legitimately restricted, it must be shown to be distinct from other subcombinations. If two different subcombinations are necessarily related, they are not distinct and may each be a species of a common generic invention. *See* MPEP § 806.04(b). In such a case, an election/restriction requirement is improper.

All of the pending claims are directed to various related aspects of an invention that synchronizes parallel texture pipeline processors by staging and advancing polygon state variables according to whether the state variables indicate that multiple texture operations can be performed at the same time. All of the five subcombinations identified by the Examiner are related to each other through their common examination and/or manipulation of state variables to synchronize elements of parallel texture pipelines. That is, in each of the claims, common elements exist which reinforce Applicants' position that the claims in every subcombination are related sufficiently to preclude any requirement for election and restriction.

Moreover, because past searches are surely to have encompassed the same classifications that are to be searched for any new elements added to the claims, any new search does not appear to present a serious burden. *See* MPEP § 811 (Noting that "[b]efore making a restriction requirement after the first action on the merits, the examiner will consider whether there will be a

serious burden if restriction is not required"). Since there has already been two Office Actions on the merits, a search and examination of the application does not appear to present a serious burden. *See* MPEP § 803.

Still further, the undersigned submits that even if the restriction requirement is proper, 37 CFR § 1.141 provides that a reasonable number of species may nevertheless be claimed, and therefore searched, in one application. MPEP § 806.04(a).

Nevertheless, to satisfy Applicants' duty to respond, the undersigned hereby provisionally elects Group I consisting of claims 1-5. The Examiner is invited to contact the undersigned at (202) 220-4200 to discuss any aspect of the application.
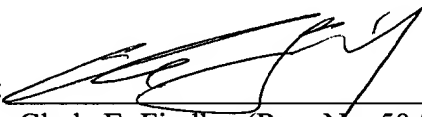
Respectfully submitted,

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Date: July 9, 2004

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